IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7397 OF 2005

Sahcalam Mohd. Rafiq and another Applicants

versus

The State of Maharashtra Respondent

R.N.Mishra for applicant.

K.V.Saste, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 30th November 2005

PC :

1. The only submission of the learned counsel for the applicant is that the applicant at the most can be held guilty of an offence punishable under section 304, Part-II of the IPC and not with the offence punishable u/s 302 of IPC with which he is presently charged.

2. The Court below has rightly observed that this is not a stage to give any opinion even prima facie as far as this aspect of the matter. Moreso, when the offence alleged is serious and recoveries have been effected. There are

statements of witnesses pointing to the guilt of the accused and the role of the co-accused as well. Hence rejected.

3. Learned APP informs me that the matter is fixed for framing of charge in the Trial Court. The Trial Court should endeavour to dispose of this case as expeditiously as possible. The Trial Court to proceed uninfluenced by the observations made by it earlier and this order.

(S.C.DHARMADHIKARI, J.)